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ANN BAVENDER*
ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR.
PAUL J. FELDMAN
FRANK R. JAZZO
ANDREW S. KERSTING
EUGENE M. LAWSON, JR.
SUSAN A. MARSHALL*
HARRY C. MARTIN
RAYMOND J. QUIANZON
LEONARD R. RAISH
JAMES P. RILEY
ALISON J. SHAPIRO
KATHLEEN VICTORY
JENNIFER DINE WAGNER*
LILIANA E. WARD
HOWARD M. WEISS
ZHAO XIAOHUA*

* NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET

ARLINGTON, VIRGINIA 22209-3801

(703) 812-0400

TELECOPIER

(703) 812-0486

INTERNET

www.fhh-telcomlaw.com

RETIRED MEMBERS
RICHARD HILDRETH
GEORGE PETRUTSAS

CONSULTANT FOR INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS
SHELDON J. KRYS
U.S. AMBASSADOR (ret.)

OF COUNSEL
EDWARD A. CAINE*
DONALD J. EVANS*
MITCHELL LAZARUS
EDWARD S. O'NEILL*

WRITER'S DIRECT

August 14, 2001

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AUG 14 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

Re: MM Docket No. 00-245 /
RM-9971
Alberta, Virginia, and Whitakers, North Carolina

Dear Ms. Salas:

Transmitted herewith, on behalf of Garysburg Radio, are an original and four copies of its "Request for Leave to File Supplement and Supplement to Reply Comments" in the above-referenced proceeding.

Should any questions arise concerning this matter, please communicate with this office.

Very truly yours,



Anne Goodwin Crump
Counsel for Garysburg Radio

Enclosures

File of Crump record 014
CRUMP

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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AUG 14 2001

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 00-245
Table of Allotments,)	RM-9971
FM Broadcast Stations.)	RM-10185
(Alberta and Dinwiddie, Virginia;)	RM-10186
Whitakers and Garysburg, North Carolina))	

Directed to: Chief, Allocations Branch

**REQUEST FOR LEAVE TO FILE SUPPLEMENT
AND SUPPLEMENT TO REPLY COMMENTS**

Garysburg Radio, by its attorneys, hereby respectfully requests leave to submit the following Supplement to its Reply Comments in the above-referenced proceeding filed August 3, 2001. With respect thereto, the following is stated:

1. On August 3, 2001, Garysburg Radio submitted its Reply Comments in response to the Commission's *Public Notice*, Report No. 2496, dated July 19, 2001. On that date, Dinwiddie Radio Company ("DRC") and MainQuad Broadcasting, Inc. ("MainQuad") also submitted Reply Comments in this proceeding. Both of these documents contained new factual information not previously presented in this proceeding and to which Garysburg Radio has not previously had an opportunity to respond. Accordingly, and in the interest of a complete record in this proceeding, Garysburg Radio hereby requests leave to file the following Supplement to its Reply Comments in order to respond to the newly presented information.

2. DRC's Reply Comments note that there is no overlap at all between the service areas

of WSMY-FM and the Whitakers facility proposed by MainQuad. Accordingly, and in light of the substantial distance between Alberta and Whitakers, DRC argues that MainQuad's proposal should be treated as a request to allot an entirely new broadcast facility to Whitakers. Garysburg Radio heartily concurs in this argument. Clearly, a move of such magnitude that the existing and proposed service contours have no overlap whatsoever cannot be considered as a simple move of an existing station. Rather, MainQuad, contrary to existing Commission policy, is attempting to create an entirely new broadcast facility in a community close to an urbanized area and, under the guise of a claimed station relocation, to cut off the rights of any potential competitor to apply for that new facility. As a result, MainQuad would receive the windfall of a new station near an urban area without having to face the prospect of competitive bidding against other potential applicants. Such conduct runs counter to existing policy, and such maneuvering toward this inequitable result must not be allowed. This is particularly true since, as shown below, there is a proposal which does fit within acceptable procedures and would provide continued service to Alberta.

3. MainQuad has argued that a change in the operations of WSMY-FM is necessary due to claims of interference to reception in Alberta of television Channel 12, licensed to Richmond, Virginia. MainQuad previously indicated in this proceeding that it had ceased operating WSMY-FM almost immediately after it began operating with program test authority due to an unspecified number of complaints received concerning interference to television Channel 12, licensed to Richmond, Virginia. In its Reply Comments filed August 3, MainQuad reports that it recommenced operation on July 23, 2001, but that due to complaints and a request from the mayor of Alberta, it took the station silent again on August 1, 2001. According to MainQuad's

Reply Comments, the difficulties appear to be caused by the combination of the fact that WSMY-TV operates on the second harmonic of Channel 12's frequency and the use by Alberta residents of antenna boosters in order to receive Channel 12 from Richmond.

4. Garysburg Radio notes that adoption of its Counterproposal would completely solve the difficulties which MainQuad has described without depriving the community of Alberta of its sole local broadcast service. While MainQuad has proposed the allotment of Channel 299A at Alberta as a kind of replacement for the channel which MainQuad proposes to remove to Whitakers, the Commission has stated that, “[f]rom the public’s perspective, the potential for service at some unspecified future date is a poor substitute for the signal of an operating station that can be accessed today simply by turning on a TV or radio set.” *Modification of FM and TV Authorizations to Specify a New Community of License*, 5 FCC Rcd 7094, 7097 (1990). If instead, as proposed in Garysburg Radio’s Counterproposal in this proceeding, the license for WSMY-FM were modified to specify operation on Channel 299A, the claimed problems with operation of WSMY-FM’s current facilities would be eliminated. Since Channel 299A does not have a second harmonic relationship with television Channel 12, the potential for interference would no longer exist, and WSMY-FM could return to operation at Alberta.¹ The people of

¹ While the mayor of Alberta has submitted a letter stating that her primary goal is to have WSMY-FM relocated, it is doubtful that the option of having WSMY-FM stay in Albert and operate on Channel 299A was offered to her for her consideration. Given the fact that she indicates in her letter that she would welcome a station to operate on 107.7 MHz, it seems likely that she would strongly support such a solution. This is particularly true since it must be assumed that she would prefer to have a transmission service in her town rather than to have the only station in Alberta moved to a different community so far away that the station would not even serve Alberta. In any event, it is not clear that the views expressed are more than the mayor’s personal opinions, as it does not appear that she polled all of the residents of Alberta on this subject.

Alberta therefore would not be required to wait for the completion of the Commission's currently scheduled FM auction, then the opening of a new application filing window, the completion of the auction of the channel, and the construction of a new station before they could once again have local service. Even after a construction permit is awarded, construction may occupy up to three years. Clearly, such a far-distant prospect of local service is but a poor substitute for the ability to obtain that service with the flick of a switch, or at most, after a simple channel change for a currently existing facility.

5. Furthermore, adoption of Garysburg Radio's counterproposal would not only allow for the retention of a sole local broadcast service at Alberta but also would provide for the allotment of a first local broadcast transmission service at Garysburg. The community of Garysburg is not located within any urbanized area, and it is at a greater distance from such an area than is Whitakers. Although proposed service areas of both the proposed Whitakers and Garysburg facilities are considered to be well-served by other reception services, the population of Garysburg is larger than that of Whitakers. While the number of additional persons that would receive a first local transmission service is relatively small, even such small differences can be significant. *Rose Hill, Trenton, Aurora, and Ocracoke, North Carolina*, 11 FCC Rcd 21223 (1996).

6. Garysburg Radio remains eager, upon adoption of its Counterproposal, to obtain an authorization to construct and operate a new station to serve the residents of Garysburg. Nevertheless, should the Commission elect not to adopt its Counterproposal, treatment of MainQuad's proposal as a request for the allotment of a new channel as set forth above also would provide a solution of the difficulties with WSMY-FM's operation without depriving the

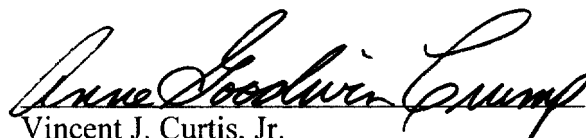
community of Alberta of its sole local broadcast service. As would be the case with the adoption of Garysburg Radio's Counterproposal, the license for WSMY-FM could be modified to specify operation on Channel 299A, thereby removing the current interference issues. The only difference from the Garysburg Counterproposal would be that a new channel would be allotted to Whitakers rather than to Garysburg. The public service benefit of retention of the sole local broadcast transmission service at Alberta would be the same, however.

7. Given the circumstances set forth above, Garysburg Radio hereby renews its request that Channel 299A be substituted for Channel 276A at Alberta, that the license for WSMY-FM be modified accordingly, and that Channel 276A be allotted to Garysburg, North Carolina.

Respectfully submitted,

GARYSBURG RADIO

By:



Vincent J. Curtis, Jr.
Anne Goodwin Crump

Its Attorneys

FLETCHER, HEALD & HILDRETH, P.L.C.
1300 N. 17th Street
Eleventh Floor
Arlington, Virginia 22209
(703) 812-0400

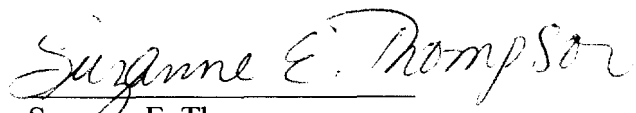
August 14, 2001

CERTIFICATE OF SERVICE

I, Suzanne E. Thompson, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C. do hereby certify that true copies of the foregoing "Reply Comments" were sent this 14th day of August, 2001, by United States mail, postage prepaid, to the following:

John M. Pelkey, Esquire
Garvey, Schubert & Barer
5th Floor, 1000 Potomac Street, N.W.
Washington, D.C. 20007
Counsel for MainQuad Broadcasting, Inc.

Meredith S. Senter, Esquire
Leventhal, Senter & Lerman, P.L.L.C.
2000 K Street, N.W., Suite 600
Washington, D.C. 20006
Counsel for Dinwiddie Radio Company


Suzanne E. Thompson